

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

*Norfolk Division*

UNITED STATES OF AMERICA,	)	
	)	
v.	)	CRIMINAL NO.: 2:22-CR-00147
	)	
	)	
RASHAUN MARCQUEZ JOHNSON	)	
Defendant.	)	
	)	

**NOTICE OF INTENT TO INVOKE FIFTH AMENDMENT PRIVILEGE AND MOTION  
AND MEMORANDUM TO QUASH SUBPOENA**

Jeron Cephus, through counsel, hereby provides notice to all parties in this matter that if called to testify he will invoke his Fifth Amendment privilege against self-incrimination. Therefore, counsel for Mr. Cephus respectfully moves this court to quash the subpoena pursuant to Federal Rule of Criminal Procedure 17(c)(2) and (d) and release Mr. Cephus from any obligation therein.

**INTRODUCTION**

Pursuant to the Fifth Amendment of the United States Constitution, the Virginia Rules of Professional Conduct Rule 4.2, and the Federal Rule of Criminal Procedure 17(c)(2) and (d), counsel for Jeron Cephus moves to quash the pending witness subpoena for Jeron Cephus as he will not be served the witness subpoena until December 19, 2022, at approximately 5:15 p.m. Counsel requests an emergency telephone conference and ruling on this motion prior to the December 20, 2022 or in the alternative continue this matter for a hearing when counsel will be present after December 27, 2022.

## **BACKGROUND**

On December 7, 2022, a Norfolk Grand Jury returned an indictment in criminal case number 2:22cr147, charging Rashaun Marcquez Johnson with Conspiracy to Distribute and Possess with Intent to Distribute Marijuana and Psilocybin, in violation of Title 21 U.S.C. § 846, 841(a)(1), and 841(b)(1)(B) (Count 1); Possession with Intent to Distribute Marijuana, in violation of Title 21 U.S.C §841(a)(1) and (b)(1)(D)(Count 2); Possession with Intent to Distribute Psilocybin in violation of Title 21 U.S.C §841(a)(1) and (b)(1)(C)(Count 3); Possession, Brandish and Discharge of a Firearm in Furtherance of Drug Trafficking Crime in violation of Title 18 U.S.C § 924(c)(Count 5). ECF 6.

On Friday, December 16, 2022, at approximately 6:15 p.m., defense counsel for Rashaun Marcquez Johnson reached out to counsel for Mr. Cephus advising that he needed to discuss a matter regarding Mr. Cephus. On December 18, 2022, counsel for both Mr. Cephus and Mr. Johnson discussed the witness subpoena being issued for Mr. Cephus' testimony and the inability of counsel to appear on that date due to preplanned time outside of the Commonwealth of Virginia.

As of December 19, 2022, no witness subpoena was filed through the ECF system showing that Jeron Cephus is being called to testify in a hearing scheduled for December 20, 2022, for defendant, Rashaun Marcquez Johnson. However, the Marshalls have confirmed with counsel that Mr. Cephus will be served with a witness subpoena today, December 19, 2022, at approximately 5:15 p.m.

Mr. Cephus has pending charges before the Chesapeake General District Court for Firearm Display with Intent to Sell Schedule I/II, Possession with Intent to Manufacture, Etc., Schedule I/II, Conspiracy – Possession with Intent to Manufacture, Etc. I/II, and Possession with

Intent to Distribute Marijuana >5lbs. These charges stem from the same incident as Mr. Johnsons current charges pending before this Court.

For the reasons stated herein, the counsel for Jeron Cephus moves to quash Jeron Cephus' subpoena and requests an emergency telephone conference and ruling on this motion prior to the December 20, 2022, or in the alternative continue this matter for a hearing when counsel will be present after December 27, 2022.

### **ARGUMENT**

It is unreasonable and oppressive to require Mr. Cephus to appear at tomorrow's hearing. Mr. Cephus at this time still has not been served with a witness subpoena. He is tentatively scheduled to be served today, December 19, 2022, at approximately 5:15 p.m.

Counsel for Mr. Cephus is not available to appear on December 20, 2022, for the scheduled hearing that Mr. Cephus is being subpoenaed to attend as she is currently out of the state.

Pursuant to Virginia Rules for Professional Conduct 4.2, Mr. Cephus is represented by counsel and counsel requests that she be present with Mr. Cephus at any hearing regarding Mr. Johnson's matter. Moreover, Mr. Cephus is not waiving his right to have counsel present with him at any and all hearings regarding Mr. Johnson's matter.

Mr. Cephus plans to invoke his Fifth Amendment right for the hearing that he is being subpoenaed for in this matter. Based on conversations that counsel has had with defense counsel, the line of questioning would invoke his Fifth Amendment rights.

Furthermore, Mr. Cephus does work a full-time job and is required to be at work since he did not receive the witness subpoena in time to notify his place of employment. It is unreasonable and oppressive for the defense to subpoena a witness at this late juncture to appear at tomorrow morning's hearing.

Therefore, counsel for Jeron Cephus moves to quash this subpoena and requests an emergency telephone conference and ruling on this motion prior to the December 20, 2022, or in the alternative continue this matter for a hearing when counsel will be present after December 27, 2022.

Respectfully Submitted,

JERON CEPHUS

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CERTIFICATE OF SERVICE

I certify that on this 19th day of December, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification (NEF) to:

Andrew W. Grindrod, Esquire  
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